

Application No. 09/933,680
Amendment Dated 10/22/2003
Reply to Notice of Allowance dated October 6, 2003

REMARKS/ARGUMENTS

By this Amendment, claim 1 is amended, claims 35-49 are added, claims 7-9 and 13-33 are canceled. Claims 14 and 26-33 were canceled by the Examiner's Amendment dated October 6, 2003. Claims 1-6, 10-12, and 34-49 are pending.

The Amendment is proper under 37 C.F.R. 1.114 (a)(1) because the prosecution of the application is closed and the submission (including an amendment to claims) and the fee are filed before payment of the issue fee. The Applicants respond to the Examiner's Amendment and after receiving a Notice of Allowance.

New claims 35-42 correspond to claims 14, 26-28 and 30-33 (with minor changes) which were canceled by the Examiner's Amendment. These claims and newly added claims 43-45, 48, and 49 read on the Markush group species of claim 1. Therefore, these claims should be examined in this application along with generic claim 1 for the reasons discussed in detail below.

The RCE is necessary to ensure that the Applicants receive the full benefit of examination in a single application of all three claimed species: (a) a water-soluble carbodiimide composition having a pH of 6.9 to 7.9, (b) a carbohydrate oxidizing agent, and (c) a heterofunctional azide reagent.

The original application disclosed three species described above. There was a species election requirement in a parent application (currently abandoned). The claims allowed in the present application prior to submission of the RCE were directed to only one of the three species, specifically to the water-soluble carbodiimide composition having a pH of 6.9 to 7.9.

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The Applicants gratefully acknowledge the allowance of claims related to one of the claimed species, specifically the subject matter of current claims 46 and 47 based on the Rule 132 Affidavit filed on July 17, 2003.

When not more than a reasonable number of additional species is claimed and no prior art anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended. MPEP 803.02.

Claim 1 as amended is generic to species (a), (b), and (c) of the Markush group and commensurate in the scope with the disclosure (see pages 6-9) regarding 1) stabilizing glycosaminoglycans on the tissue and 2) cross-linking proteins on the tissue). MPEP 806.04(d).

As the Examiner has already examined and found allowable species (a) as presented in current claims 46 and 47, the two additional species (b) and (c) of the Markush group of claim 1 should now be examined. The two species would be a reasonable number of additional species for examination.

Thus, to the extent that the Examiner might require that the Applicants make the election of a single disclosed species, the Applicants would provisionally elect the species (a), a member of the Markush group of claim 1, wherein claims 2-6, 10-12, 40, 42-44, 46 and 47 are readable upon the elected species (a).

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the

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application in even better condition for allowance, the Examiner is invited to contact Applicants'
undersigned attorney at the telephone number listed below.

Respectfully submitted,
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October 22, 2003

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Please charge or credit our
Account No. 03-0075 as necessary
to effect entry and/or ensure
consideration of this submission.

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